

### 15.28.060 – Emergency conditions

In case there shall be, in the opinion of the Fire Official, actual and immediate danger to life and property from the hazards of fire and explosion arising from the storage, handling, or use of hazardous substances, materials, or devices, or from conditions hazardous to life and property in the use or occupancy of buildings or premises, the Fire Official shall employ such labor and machinery, equipment and devices and cause the necessary work to be done to render said occupants or property temporarily safe, whether the procedure prescribed in this section has been instituted or not.

- A. Where practical and time constraints permit, the owner, occupant or other person responsible for the emergency conditions shall be notified of the emergency condition, in writing, and shall have the option of making the condition safe.
- B. The owner and occupants of the premises shall be jointly and severally liable for any costs incurred in connection with the same.
- C. The Fire Official of the city of St. Charles, Illinois, shall cause proper action to be instituted against the owner of the premises, and the occupants if different than the owners, for the recovery of costs incurred by the City of St. Charles, Illinois, in the performance of the emergency work.
- D. For the purposes of this Article, the following words and phrases shall have the meanings respectively ascribed to them:
  - a. “Hazardous Substance” or “Hazardous Material” means any substance or material or mixture of substances which is toxic, corrosive, an irritant, strong sensitizer, radioactive, flammable, combustible, or which generates pressure through decomposition, heat or other means and which may cause injury, or illness to humans, domestic livestock, or wildlife or as defined by the Illinois Environmental Protection Act or any federal law.
  - b. “Hazardous Material Incident” means an incident which threatens public health or safety involving the actual or potential release of a hazardous substance or hazardous material.
  - c. “Toxic” means any substance (other than a radioactive substance) which has the capacity to produce bodily injury or illness to man through ingestion, inhalation, or absorption through any body surface.
  - d. “Corrosive” means any substance which, in contact with living tissue, causes destruction of tissue by chemical action, but does not refer to action on inanimate surfaces.
  - e. “Irritant” means any substance, no corrosive, which, on immediate, prolonged or repeated contact with normal living tissue, will induce local inflammatory reaction.
  - f. “Strong Sensitizer” means any substance which will cause on normal living tissue through an allergic or photo dynamic process, a hypersensitivity of the same substance.
  - g. “Radioactive” means any substance which emits ionizing radiation.
  - h. “Flammable” means any substance which has a flash point of less than 100 degrees Fahrenheit.
  - i. “Combustible” means substance with a flash point greater than 100 degrees Fahrenheit.
  - j. “Person” shall mean any individual, partnership, corporation, trust, firm, company, estate, association, or other legal entity.
- Control of Hazardous Substances or Hazardous Materials:
  - a. It shall be unlawful for any person to use, store, deliver or transport hazardous substances or hazardous materials, or cause the use, storage, delivery or transporting of hazardous substances or hazardous materials in any manner inconsistent with the requirements of the Fire Prevention Code of the City of St. Charles or any other applicable City ordinance, County ordinance, State law or Federal law.
  - b. It shall be unlawful for any motor vehicle carrying, transporting or containing a hazardous substance or hazardous material to park or stand, other than temporarily for the purpose of, and while actually engaging in, loading or unloading, on private property, without the knowledge and express consent of the person who is in charge of the property and who is aware of the nature of the hazardous substance or hazardous material the motor vehicle contains.
  - c. It shall be unlawful for any person using, storing, manufacturing, producing, disposing, treating, transporting or causing the use, storage, manufacture, production, disposal, treatment or transportation of any hazardous substance or hazardous material in any manner which results in a hazardous materials incident.
- Hazardous Material or Hazardous Substance Incident Expense Recovery:
  - a. Any person causing or permitting a hazardous material incident shall be responsible for all of the following:
    - 1. Reimbursement in full, of any and all costs incurred by the City in connection with the operation (including equipment and vehicles), maintenance, and staffing required to respond to such

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hazardous materials incident. Vehicles and staffing will be charged the hourly rate of pay, including overtime expenses and overhead costs, for each employee who participates in such response to a hazardous materials incident. Any maintenance costs incurred by the City will be reimbursed at the rate of time and materials.

2. Reimbursement, in full, for any and all costs incurred by the City for equipment and materials used, damaged, lost, spent, destroyed or rendered irreparable in connection with a hazardous materials incident.
  3. Assumption of, and all liability and costs for, any cleanup or removal resulting from any hazardous materials incident, including but not limited to any independent cleanup contractor necessitated by such hazardous materials incident.
  4. Any and all costs and reasonable attorney's fees incurred in connection with the enforcement of the Ordinance and any collection undertaken hereunder.
- b. The City of St. Charles shall prepare and forward to the person or persons causing or permitting a hazardous material incident a bill for the total costs and expenses incurred for which such person or persons are responsible pursuant to this Section; provided, however, any costs in connection with any independent cleanup contractor shall be billed directly by such contractor. Payment of the total bill shall be made within thirty (30) days of receipt. Any bill or portion of a bill remaining unpaid after thirty (30) days of receipt shall accrue interest on the unpaid balance at the rate of 1 1/2% per month, or fraction of month.

**Limitation of Liability:** The City, its officers, agents or employees, shall not have any liability or responsibility for any claim, injury, or damage of any kind resulting from a hazardous material incident to which the City or any of its departments, officers, agents or employees responds.

**Invalidity:** Should any clause, sentence, paragraph or part of this Ordinance be declared a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the Ordinance as a whole or any part thereof, other than the part so declared to be invalid.

(2010-M-44 : § 1; 2006-M-59 : Pgrph D; 2004-M-76 : § 1; 1988-M-15 : § 1; 1978-M-37 : Art. 5 (B))